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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,565	01/23/2004	Philippe Gambier	68.0418	4887

35204 7590 01/17/2006

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EXAMINER	
COLLINS, GIOVANNA M	

ART UNIT	PAPER NUMBER
3672	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/763,565	GAMBIER, PHILIPPE	
	Examiner	Art Unit	
	Giovanna M. Collins	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-27 and 31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *31* is/are allowed.

6)☒ Claim(s) *25-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The indicated allowability of claims 25-27 is withdrawn in view of the newly discovered reference(s) to Simpson '696, Current '838, Cooke '692 and Slack '170. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. 200020189696 in view of Current 3,374,838.

Simpson discloses (fig. 8) a seal element comprising a support (paragraph 0014), a sealing layer (86) partially enclosing the support and a tubing comprising slots (84) adapted to radially extend against the support to press the sealing layer against a wall (fig. 9). Simpson does disclose the support can be similar to strips of metal on the external surface of inflated packers (paragraph 0042, last sentence) but does not specifically disclose the support is a sleeve. Current teaches (fig. 6) a support that is a sleeve (at 177) in the external surface of a inflated packer. As it would be advantageous to use a support that is suggested by Simpson to use, it would be advantageous to one of ordinary skill in the art at time of the invention to modify Simpson to have a support sleeve in view of the teaches of Current.

Referring to claim 27, Simpson discloses the tube (85) is adapted to expand with compressed axially.

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. 200020189696 in view of Current 3,374,838 as applied to claim 25 and further in view of Cook 200050000692.

Simpson, as modified does not disclose the slots are helical. Cook teaches a packer with a sealing layer that has an expandable tubing with helical slots (see fig. 9f). Cook teaches the shape of the slots depends upon the shape of the tubular, amount of radial expansion required. Moreover, a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). As it would be advantageous to have the slots be the best shape for the amount of radial expansion required, it would be obvious to one of ordinary skill in the art to modify the seal element disclosed by Simpson, as modified by Current to have helical slots in view of the teachings of Cook.

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. 200020189696 in view of Current 3,374,838 as applied to claim 25 and further in view of Cook 200050000692.

Simpson, as modified does not disclose the slots are helical. Slack teaches an expandable tubing with helical slots (see fig. 9f). Moreover, a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d

669, 149 USPQ 47 (CCPA 1966). Therefore, it would be obvious to one of ordinary skill in the art to modify the seal element disclosed by Simpson, as modified by Current to have helical slots in view of the teachings of Simpson because a change in the shape of a prior art device is a design consideration within the skill of the art.

Allowable Subject Matter

5. Claim 31 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna M. Collins whose telephone number is 571-272-7027. The examiner can normally be reached on 6:30-3 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gmc

David Bagnell
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Technology Center 3670